

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE PLUMBING SUPPLY, LLC,
d/b/a FAUCET WORKS,

Plaintiff,

-against-

EXXONMOBIL OIL CORPORATION,
CPD NY ENERGY CORPORATION,
and JOHN DOES 1-10,

Defendants.

CPD NY ENERGY CORP.,

Third-Party Plaintiff,

-against-

CUMBERLAND FARMS, INC.,
GROUNDWATER & ENVIRONMENTAL
SERVICES, INC., JOHN DOES 1-10,

Third-Party Defendants.

Civil Action No. 14-cv-3674

Hon. Vincent L. Briccetti, U.S.D.J.

**NOTICE OF MOTION
TO DISMISS THIRD-
PARTY COMPLAINT**

PLEASE TAKE NOTICE that upon the attached Affirmation of Marco Cercone, Esq., sworn to on June 16, 2015, and upon all prior pleadings and proceedings in this action, third-party defendant, Groundwater & Environmental Services, Inc., will move this Court at the United States Courthouse for the Southern District of New York, 300 Quarropas Street, Courtroom 620, White Plains, New York, 10601, before the Honorable Vincent L. Briccetti, U.S.D.J., at a time and date to be determined by the Court, for an Order dismissing the third-party complaint as to third-party defendant

Groundwater & Environmental Services, pursuant to Rule 12(b)(3) on the basis that the Southern District of New York is the improper venue for the third-party plaintiff's claims; and pursuant to Rule 12(b)(6) on the basis that the third-party plaintiff has failed to state a claim upon which relief can be granted, along with such other and further relief as to this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 6.1(b), answering papers, if any, are required to be served on the undersigned within 14 days after service of the instant motion, and reply papers, if any, are required to be served within seven days after service of the answering papers.

DATED: June 17, 2015
Buffalo, New York

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By:



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